

## REMARKS

In the Office Action, the Examiner subjected the claims to a restriction requirement, requiring selection of one of the following groups:

- I. **Claims 1-15** drawn to a composition comprising a modified form of an *Aequorea* GFP, classified in class 530, subclass 350
- II. **Claim 16** drawn to a nucleotide encoding a modified form of an *Aequorea* GFP, classified in class 536, subclass 23.5
- III. **Claims 17-23** drawn to methods of use of a nucleotide encoding a modified form of an *Aequorea* GFP, classified in class 435, subclass 6

**Applicants hereby provisionally elect Group I with traverse (claims 1-15) drawn to a composition comprising a modified form of an *Aequorea* green fluorescent protein.**

Applicants respectfully traverse the restriction requirement for at least the reasons discussed below.

The Examiner correctly characterizes the invention of groups II and III as related as product and method of use, since the nucleotide of claim 16 may be used as claimed in the methods of claims 17-23. Moreover, the nucleotides claimed and used in claims 16-23 encode the modified *Aequorea* green fluorescent proteins of claims 1-15. Applicants respectfully submit that all these claims disclose related inventions that share a **common feature** (a modified *Aequorea* green fluorescent protein, provided either directly or by expression) exhibiting a **common functional property** (fluorescence), the claims being directed either to compositions comprising fluorescent proteins, to nucleic acids encoding the fluorescent proteins, or to methods for using the nucleic acids and fluorescent proteins.

Thus, for at least the reasons that the compositions comprising fluorescent proteins, nucleic acids, and methods of using the same are all directed to fluorescent proteins that serve similar functions, have related modes of operation, and have related utility, applicants respectfully submit that examination of claims 1-23 as submitted would not place a serious burden on the Examiner, and would facilitate the expeditious examination of the claimed invention.

## **CONCLUSION**

The Examiner is respectfully requested to reconsider the present restriction requirement in view of the arguments provided herein.

**By provisionally electing Group I with traverse, providing arguments herein, and requesting the Examiner to reconsider the restriction requirement, Applicants hereby preserve their right to Petition from the requirement for restriction under 37 C.F.R. § 1.144.**

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. **08-1641** citing Attorney Docket No. **39754-0861 CPDV3C1**.

Respectfully submitted,

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